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Law

Thomas J. Healey
Counsel - Regulatory

17641 S. Ashland Avenue
Homewood, IL 60430-1339
T - 708-332-4381
F - 708-332-4361
tom.healey@cn.ca

Once received...

MAY 26 2011

Part of
Public Record

May 23, 2011

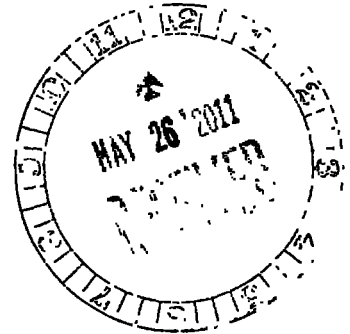
Via Overnight Mail

Ms. Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E. Street, S.W.
Washington, DC 20424

FILED

MAY 26 2011

TRANSPORTATION BOARD



Re: Docket No. AB-101 (Sub No. 18X) Duluth, Missabe and Iron range
Railway Company - Abandonment Exemption - in Duluth, St. Louis
County, Minnesota

27615

Dear Ms. Brown:

Enclosed for filing in the above-captioned proceeding are an original and ten copies of the Verified Notice of Exemption of Duluth, Missabe and Iron Range Railway Company dated May 20, 2011, pursuant to 49 C.F.R. § 1152.50. I am also enclosing a check in the amount of \$3,600.00, representing the appropriate fee for this filing.

One extra copy of this transmittal letter is enclosed as well. Please date stamp this copy to show receipt and return it to me in the enclosed envelope.

The Environmental and Historic Reports for this proceeding have already been filed with the Board. Feel free to contact me if you have any questions. Thank you for your assistance in this matter.

Respectfully submitted,

Thomas J. Healey
Attorney for Duluth, Missabe and Iron
Range Railway Company

FEE RECEIVED

MAY 26 2011

TRANSPORTATION BOARD

Encls.

cc: Minnesota Department of Transportation

BEFORE THE
SURFACE TRANSPORTATION BOARD

DOCKET NO. AB-101 (SUB-NO. 18X)

DULUTH, MISSABE AND IRON RANGE RAILWAY COMPANY
— ABANDONMENT EXEMPTION —
IN DULUTH, ST. LOUIS COUNTY, MINNESOTA

**VERIFIED NOTICE OF EXEMPTION OF
DULUTH, MISSABE AND IRON RANGE RAILWAY COMPANY
PURSUANT TO 49 C.F.R. § 1152.50**

Thomas J. Healey
17641 S. Ashland Avenue
Homewood, IL 60430-1345
(708) 332-4381
ATTORNEY FOR
DULUTH, MISSABE AND IRON RANGE
RAILWAY COMPANY

BEFORE THE
SURFACE TRANSPORTATION BOARD

DOCKET NO. AB-101 (Sub-No. 18X)

DULUTH, MISSABE AND IRON RANGE RAILWAY COMPANY
- ABANDONMENT EXEMPTION -
IN DULUTH, ST. LOUIS COUNTY, MINNESOTA

**VERIFIED NOTICE OF EXEMPTION OF
DULUTH, MISSABE AND IRON RANGE RAILWAY COMPANY
PURSUANT TO 49 C.F.R. § 1152.50**

Duluth, Missabe and Iron Range Railway Company ("DMIR") hereby submits this Notice of Exemption pursuant to 49 C.F.R. Part 1152, Subpart F, to abandon its line of railroad in Duluth, St. Louis County, Minnesota, referred to herein as the "Line" between milepost 0.00 and milepost 1.96, a distance of 1.96 miles.

In accordance with the requirements of 49 C.F.R. § 1152.50(d)(2), DMIR submits the following information:

General Corporation Information: 49 C.F.R. § 1152.22(a)(1)-(2)

DMIR is a wholly-owned subsidiary of Canadian National Railway Company. The complete name and address of DMIR is:

Duluth, Missabe and Iron Range Railway Company
17641 S. Ashland Avenue
Homewood, IL 60430-1345

Relief Sought: 49 C.F.R. § 1152.22(a)(3)

Pursuant to the Board's class exemption for the abandonment of out-of-service rail lines, codified at 49 C.F.R. Part 1152, Subpart F, DMIR intends to abandon its line of railroad between Mileposts 0.00 and 1.96, a distance of 1.96 miles in Duluth, St. Louis County, Minnesota.

Map: 49 C.F.R. § 1152.22(a)(4)

A map of the Line to be abandoned is attached hereto as Exhibit A.

WCL's Representative: 49 C.F.R. § 1152.22(a)(7)

DMIR's representative to whom correspondence regarding this abandonment should be sent is:

Thomas J. Healey
17641 S. Ashland Avenue
Homewood, IL 60430-1345
(708) 332-4381

ZIP Codes Traversed: 49 C.F.R. § 1152.22(a)(8)

The portion of the Line to be abandoned traverses United States Postal Service ZIP Code 55808.

Qualification for Class Exemption: 49 C.F.R. § 1152.50(b)

Per the certificate and verification attached hereto as Exhibit B, DMIR certifies that no local revenue traffic has moved over the portion of the Line to be abandoned for at least the last two years, there is no overhead traffic on this trackage that would have to be rerouted over other lines, and no formal complaint filed by a user of rail service on the portion of the Line to be abandoned (or a state or local governmental entity acting on behalf of such user) regarding cessation of service on the proposed abandonment is pending with the Board or any U.S. District Court or has been decided in favor of the complainant during the last two years.

Consummation Date: 49 C.F.R. § 1152.50(d)(2)

DMIR will not consummate the proposed abandonment any earlier than July 22, 2011.

Suitability for Other Public Purposes: 49 C.F.R. § 1152.22(e)(4)

DMIR believes that the right-of-way may be of interest to the State or another entity for public use.

Labor Protection: 49 C.F.R. 1152.50(d)(2)

The level of labor protection applicable in rail line abandonment's is that established in *Oregon Short Line Co. — Abandonment — Goshen*, 360 I.C.C. 91 (1979).

Certificate of Compliance with Notice Requirements: 49 C.F.R. § 1152.50(d)(2)

A certificate that the notice of requirements of 49 C.F.R. § 1152(d)(1) and 49 C.F.R. § 1105.11 have been complied with is attached hereto as Exhibit C.

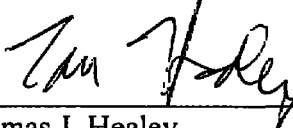
Environmental and Historic Report: 49 C.F.R. §§ 1105.7 and 1105.8

An Environmental and Historic Report, prepared pursuant to 49 C.F.R. §§ 1105.7 and 1105.8, was already filed with the Surface Transportation Board in this proceeding.

Since filing the Environmental and Historical Report, DMIR has received follow up correspondence from the Minnesota Historical Society. If the project remains as a sale and the two bridges and rail are kept intact, the SHPO does not have any objections. See correspondence attached as Exhibit D.

Also, DMIR has received additional correspondence from the City of Duluth. The City has resolved its possible issues and is withdrawing their initial letter that expressed concerns with this abandonment. That correspondence is attached as Exhibit E.

Respectfully submitted,

By 
Thomas J. Healey
17641 S. Ashland Avenue
Homewood, IL 60430-1345
(708) 332-4381

ATTORNEY FOR DULUTH, MISSABE AND IRON
RANGE RAILWAY COMPANY

Dated: May 23, 2011

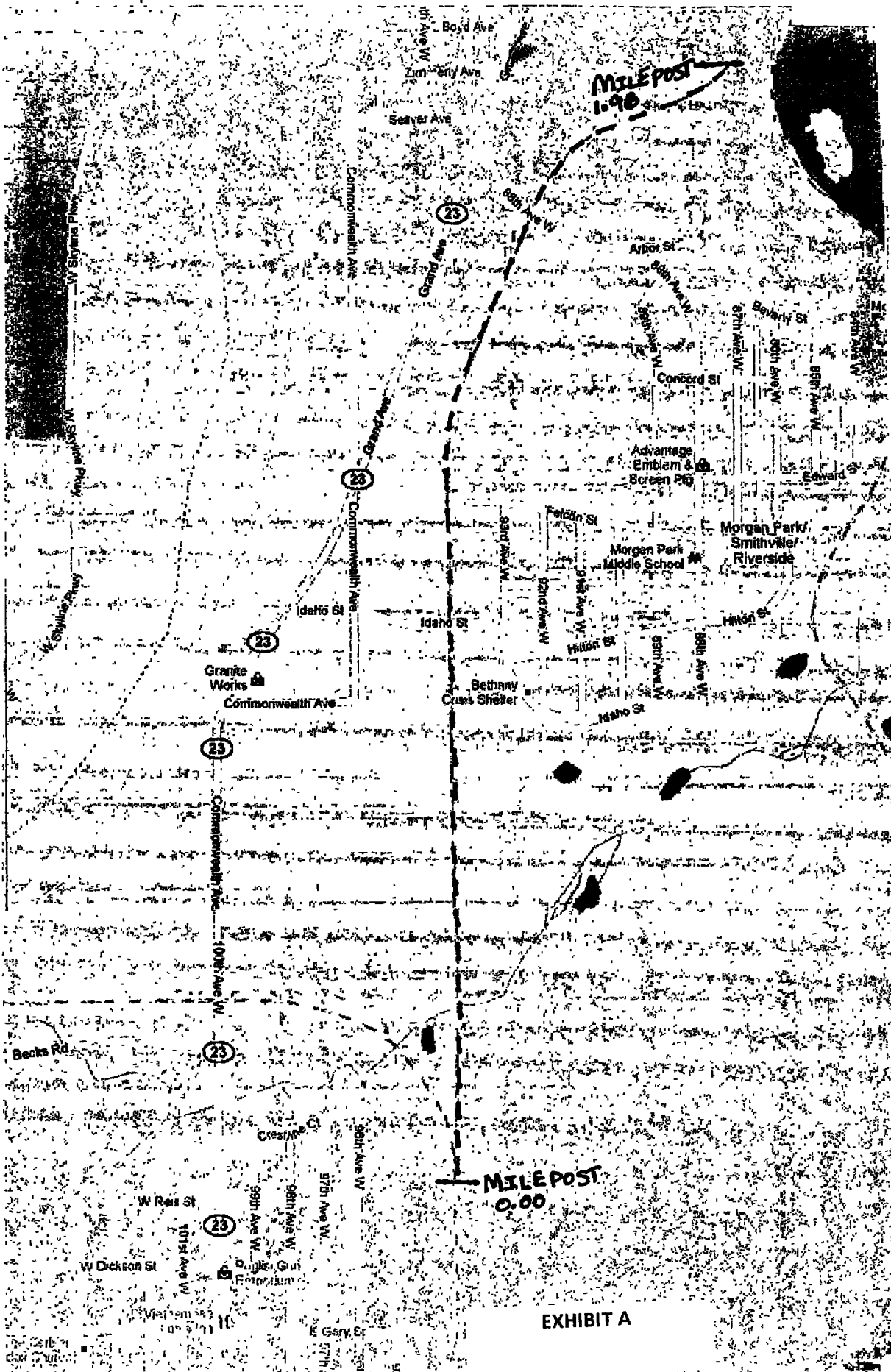


EXHIBIT B

DOCKET NO. AB-101 (SUB-NO. 18X)

**DULUTH, MISSABE AND IRON RANGE
RAILWAY COMPANY - ABANDONMENT EXEMPTION -
IN DULUTH, ST. LOUIS COUNTY, MINNESOTA**

CERTIFICATE AND VERIFICATION

STATE OF ILLINOIS)
) ss
COUNTY OF COOK)

Robert M. Wedam, being duly sworn, deposes and says:

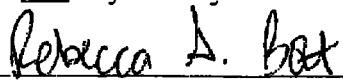
1. That no local traffic has moved over the line of Duluth, Missabe and Iron Range Railway Company ("DMIR") from milepost 0.00 to 1.96, a distance of 1.96 miles in Duluth, St. Louis County, Minnesota, for at least two years, and that there is no overhead traffic to be rerouted over other lines; and
2. That no formal complaint filed by a user of rail service on the subject line (or a state or local government entity acting on behalf of such user) regarding cessation of service over the line is either pending with the Surface Transportation Board or any U.S. District Court or has been decided in favor of the complainant within the last two years; and
3. That he has read the foregoing Notice of Exemption, knows the facts therein asserted, and that the same are true as stated.

Date: May 23, 2011

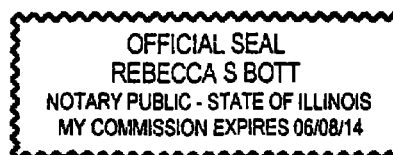


Robert M. Wedam
Senior Manager – Network Strategies
Duluth, Missabe and Iron Range Railway Company

Subscribed and sworn to before me
this 23rd day of May, 2011.



Notary Public



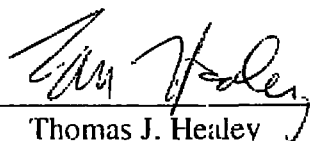
CERTIFICATE

I, Thomas J. Healey, an attorney for Duluth, Missabe and Iron Range Railway Company ("DMIR") hereby certify that, for the proceeding before the Surface Transportation Board known as Docket No. AB-101 (Sub-No. 18X), DMIR — Abandonment Exemption — in Duluth, St. Louis County, Minnesota:

(1) The notice requirements of 49 C.F.R. § 1152.50(d)(1) have been complied with, to-wit: On April 12, 2011, written notice was mailed to the: (a) Minnesota Department of Transportation; (b) U.S. Department of Defense, MTMCTEA; (c) National Center for Recreation and Conservation; and (d) U.S. Department of Agriculture (copies of which are attached hereto as Attachments 1-4).

(2) The notice requirements of 49 C.F.R. § 1105.11 have been complied with, to wit: On March 17, 2011, the Environmental Report and Historic Report for this proceeding, which reports have also been filed with the Surface Transportation Board, and the accompanying transmittal letters in the form set forth in 49 C.F.R. § 1105.11 (a sample of which is attached hereto as Attachment 5) were served by first class mail, postage prepaid, on the parties listed on Attachment 6, which list includes the state historic preservation officer, as required by 49 C.F.R. § 1105.7(b) and § 1105.11.

(3) A newspaper notice was published on January 30, 2011, in the *Duluth News-Tribune*, a newspaper of general circulation in Duluth, Minnesota. The notice alerted the public to the proposed abandonment, to possible reuse alternatives, and to procedures for participating in the STB proceeding. A copy of the notice and Affidavit of Publication are attached to this Certificate as Attachment 7.


Thomas J. Healey

Dated: May 23, 2011

EXHIBIT C



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Law

Thomas J. Healey
Counsel - Regulatory

17641 S. Ashland Avenue
Homewood, IL 60430-1339

T - 708-332-4381
F - 708-332-4361
tom.healey@cn.ca

April 12, 2011

Ms. Roberta Dwyer
Minnesota Department of Transportation
Transportation Building
395 John Ireland Blvd.
St. Paul, MN 55155

Re: Docket No. AB-101 (Sub-No. 18X), Duluth, Missabe and Iron Range Railway
Company - Notice of Exemption in Duluth, St. Louis County, Minnesota

Dear Ms. Dwyer:

This is to inform you that pursuant to 49 C.F.R. § 1152.50 (Exempt Abandonments and Discontinuance of Service and Trackage Rights), Duluth, Missabe and Iron Range Railway Company, on April 28, 2011 will file a Notice of Exemption with the Surface Transportation Board for approval to abandon approximately 1.96 miles of railroad line starting at milepost 0.00 and ending at milepost 1.96 in Duluth, St. Louis County, Minnesota. Such line runs through U.S. Postal Zip Code 55808.

The exemption procedures set forth in § 1152.50 are being used in this case because no local traffic has moved over this line for at least two years and any potential overhead traffic on this line can be rerouted over other lines. Based on information in our possession, the line does not contain federally granted rights-of-way. Any documentation in the railroad's possession will be made available promptly to those requesting it.

Sincerely,

Thomas J. Healey
Attorney for
Duluth, Missabe and Iron Range Railway Company

ATTACHMENT 1



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Law

Thomas J. Healey
Counsel - Regulatory

17641 S. Ashland Avenue
Homewood, IL 60430-1339

T - 708-332-4381
F - 708-332-4361
tom.healey@cn.ca

April 12, 2011

Military Surface Deployment and Distribution Command
Transportation Engineering Agency
Attn: SDTE-SA (Railroads for National Defense)
709 Ward Drive, Building 1990
Scott AFB, IL 62225-5357

Re: Docket No. AB-101 (Sub-No. 18X), Duluth, Missabe and Iron Range Railway
Company - Notice of Exemption in Duluth, St. Louis County, Minnesota

Dear Sir/Madam:

This is to inform you that pursuant to 49 C.F.R. § 1152.50 (Exempt Abandonments and Discontinuance of Service and Trackage Rights), Duluth, Missabe and Iron Range Railway Company, on April 28, 2011 will file a Notice of Exemption with the Surface Transportation Board for approval to abandon approximately 1.96 miles of railroad line starting at milepost 0.00 and ending at milepost 1.96 in Duluth, St. Louis County, Minnesota. Such line runs through U.S. Postal Zip Code 55808.

The exemption procedures set forth in § 1152.50 are being used in this case because no local traffic has moved over this line for at least two years and any potential overhead traffic on this line can be rerouted over other lines. Based on information in our possession, the line does not contain federally granted rights-of-way. Any documentation in the railroad's possession will be made available promptly to those requesting it.

Sincerely,

Thomas J. Healey
Attorney for
Duluth, Missabe and Iron Range Railway Company

ATTACHMENT 2



www.cn.ca

Law

Thomas J. Healey
Counsel - Regulatory

17641 S. Ashland Avenue
Homewood, IL 60430-1339

T - 708-332-4381
F - 708-332-4361
tom.healey@cn.ca

April 12, 2011

Mr. Thomas Ross, Division Chief
National Center for Recreation and Conservation
National Park Service
1849 C. Street, N.W.
Org. Code 2220
Washington, D.C. 20420

Re: Docket No. AB-101 (Sub-No. 18X), Duluth, Missabe and Iron Range Railway
Company - Notice of Exemption in Duluth, St. Louis County, Minnesota

Dear Mr. Ross:

This is to inform you that pursuant to 49 C.F.R. § 1152.50 (Exempt Abandonments and Discontinuance of Service and Trackage Rights), Duluth, Missabe and Iron Range Railway Company, on April 28, 2011 will file a Notice of Exemption with the Surface Transportation Board for approval to abandon approximately 1.96 miles of railroad line starting at milepost 0.00 and ending at milepost 1.96 in Duluth, St. Louis County, Minnesota. Such line runs through U.S. Postal Zip Code 55808.

The exemption procedures set forth in § 1152.50 are being used in this case because no local traffic has moved over this line for at least two years and any potential overhead traffic on this line can be rerouted over other lines. Based on information in our possession, the line does not contain federally granted rights-of-way. Any documentation in the railroad's possession will be made available promptly to those requesting it.

Sincerely,

Thomas J. Healey
Attorney for
Duluth, Missabe and Iron Range Railway Company



www.cn.ca

Law

Thomas J. Healey
Counsel - Regulatory

17641 S. Ashland Avenue
Homewood, IL 60430-1339

T - 708-332-4381
F - 708-332-4361
tom.healey@cn.ca

April 12, 2011

Ms. Abigail Kimball
Chief, Forest Service
U.S. Department of Agriculture
1400 Independence Ave., S.W.
RM 4NW YATESBG
Washington, DC 20250

Re: Docket No. AB-101 (Sub-No. 18X), Duluth, Missabe and Iron Range Railway
Company - Notice of Exemption in Duluth, St. Louis County, Minnesota

Dear Ms. Kimball:

This is to inform you that pursuant to 49 C.F.R. § 1152.50 (Exempt Abandonments and Discontinuance of Service and Trackage Rights), Duluth, Missabe and Iron Range Railway Company, on April 28, 2011 will file a Notice of Exemption with the Surface Transportation Board for approval to abandon approximately 1.96 miles of railroad line starting at milepost 0.00 and ending at milepost 1.96 in Duluth, St. Louis County, Minnesota. Such line runs through U.S. Postal Zip Code 55808.

The exemption procedures set forth in § 1152.50 are being used in this case because no local traffic has moved over this line for at least two years and any potential overhead traffic on this line can be rerouted over other lines. Based on information in our possession, the line does not contain federally granted rights-of-way. Any documentation in the railroad's possession will be made available promptly to those requesting it.

Sincerely,

Thomas J. Healey
Attorney for
Duluth, Missabe and Iron Range Railway Company



www.cn.ca

March 17, 2011

**Re: Duluth, Missabe and Iron Range Railway Company Notice of Exemption for Abandonment
– Duluth, St. Louis County, Minnesota - Docket AB-101 (Sub-No. 18X)**

To Whom It May Concern:

Any time on or after April 28, 2011, Duluth, Missabe and Iron Range Railway Company ("DMIR") expects to file with the Surface Transportation Board ("STB") a Notice of Exemption seeking authority to abandon a railroad line located between milepost 0.00 and milepost 1.96, a distance of 1.96 miles, in Duluth, St. Louis County, Minnesota. Enclosed is an Environmental Report and a Historic Report describing the proposed action and any expected environmental and historical effects, as well as a map of the affected area.

We are providing this report so that you may review the information that will form the basis for the STB's independent environmental and historical analysis of this proceeding. If any of the information is misleading or incorrect, if you believe that pertinent information is missing, or if you have any questions about the STB's environmental and historic review process, please contact their Section of Environmental Analysis (SEA), at the Surface Transportation Board, 395 E Street, SW, Washington, D.C. 20423-0001, (202) 245-0245, and refer to the above docket number.

DMIR will file the Environmental Report and Historic Report with the STB on or about March 17, 2011. Because the applicable statutes and regulations impose stringent deadlines for processing this action, your written comments to the STB (with a copy to the undersigned) would be appreciated within three weeks. Your comments will be considered by the STB in evaluating the environmental and historical impact of the contemplated action.

If there are any questions concerning this proposal, please contact the undersigned directly at (708) 332-4381 or by mail at the above address.

Sincerely,

Thomas J. Healey
Attorney for

Duluth, Missabe and Iron Range Railway Company

Encls.

Ms. Dawn Whitehead
US EPA Region 5
77 W. Jackson Blvd.
Chicago, IL 60604

Mr. Pat Collins
Lake Superior Coastal Program Manager
DNR Waters
1201 East Highway 2
Grand Rapids, MN 55744

Mr. Jeff Anderson
City Council President
PO Box 385
Duluth, MN 55801

U.S. Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Mr. Patrick Carroll
US Fish & Wildlife Service
One Federal Drive
Fort Snelling, MN 55111

Aaron Snyder
US Army Corps of Engineers
St. Paul District
180 5th St. East
Suite 700
St. Paul MN 55101-1678

National Park Service
Suite 105
111 Kellogg Blvd E.
St. Paul, MN 55101-1256

Mr. Paul Flynn
Natural Resources Conservation Service
375 Jackson Street, Suite 600
Saint Paul, Minnesota 55101

Minnesota DNR
500 Lafayette Road
St. Paul, MN 55155

Ms. Roberta Dwyer
Minnesota Department of Transportation
Transportation Building
395 John Ireland Blvd
St. Paul, MN 55155

. National Geodetic Survey Information Services
Simon Monroe <Simon.Monroe@noaa.gov>

Mr. David Montgomery
City of Duluth, Chief Adminis. Officer
411 W. First Street, Room 402
Duluth, MN 55802

Ms. Mary Ann Heidemann
Minnesota Historical Society
345 Kellogg Blvd. W.
St. Paul, MN 55102

Mr. Dixon Bastie
Western Lake Superior Sanitary District
2626 Courtland Street
Duluth, MN 55806-1894

STATE OF MINNESOTA) AFFIDAVIT OF PUBLICATION

COUNTY OF ST. LOUIS)

Kathy Berndt, being first duly sworn on oath states, or affirms that s/he is the publisher of the newspaper known as the Duluth News-Tribune, or the publisher's designated agent, and has full knowledge of the facts stated below:

A. The newspaper has complied with all of the requirements constituting qualification as a qualified newspaper, as provided by Minn. Stat. 331A.02, and other applicable laws, as amended.

B. The printed public notice that is attached was published on the following dates:

January 30, 2011

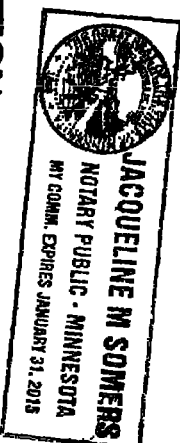
By Kathy Berndt

Subscribed and sworn to or affirmed before me

on this 4th day of February, 2011.

Notary Public

Jacqueline M. Somers



RATE INFORMATION

Lowest classified rate paid by commercial users for comparable space:

\$ 0.00 per line

Maximum Rate allowed by law:

\$ 0.00 per line

Rate actually charged:

\$ 0.00 per line

NOTICE

DULUTH, MISSABE AND IRON RANGE RAILWAY gives notice that on or after March 31, 2011, it intends to file with the Surface Transportation Board, Washington, DC 20423, a notice of exemption under 49 CFR 1152. Subpart F, Example 2, Abandonment, permitting the abandonment of 1.96 miles of railroad line between milepost 0.00 and milepost .96 in Lincoln St. Louis County, Minnesota. The line traverses through the State of Minnesota. The proposed abandonment is described in the attached map. The Board's decision on the proposed abandonment will be made on or before May 1, 2011. The Board's decision on the proposed abandonment will be made on or before May 1, 2011. The Board's decision on the proposed abandonment will be made on or before May 1, 2011.

persons may obtain a copy of the EA for make inquiries regarding environmental matters by writing to the SEA, Surface Transportation Board, 395 E. Street, SW, Washington, DC 20423 or by calling that office at (202) 245-0245. Appropriate offers of financial assistance to continue rail service can be filed with the Board. Requests for environmental conditions, public use, or rail bank. No later than 30 days after filing with the Board. An initial public hearing will be held on the proposed abandonment on or before May 1, 2011. The Board's decision on the proposed abandonment will be made on or before May 1, 2011. The Board's decision on the proposed abandonment will be made on or before May 1, 2011.

1104 12(a). Questions regarding offers of financial assistance: public use or rail use may be directed to the Commission's Office of Congressional and Public Services at (202) 1565-1592. Copies of any comments or requests for conditions should be served on the applicant's representative Thomas J. Healey, (706) 332-4381, 17641 S. Ashland Avenue, Homewood, IL 60430. D.N.-T. Jan. 30, 2011 223938



STATE HISTORIC PRESERVATION OFFICE

March 28, 2011

Mr. Thomas Healey, Counsel
Duluth, Missabe and Iron Range Railroad
17641 South Ashland Avenue
Homewood, IL 60430-1339

RE: Docket No. AB-101, Sub No. 18 X – DT Line Track Abandonment
Abandon 1.96 mi. of the Duluth, Missabe, and Iron Range Railway
Duluth, St. Louis County
SHPO Number: 2011-1135

Dear Mr. Healey:

Thank you for sending the additional information we requested on the above project. It has been reviewed pursuant to the responsibilities given the State Historic Preservation Officer by the National Historic Preservation Act of 1966 and the Procedures of the Advisory Council on Historic Preservation (36CFR800).

As stated previously, Bridge No. L6118 is a contributing element within the Morgan Park Historic District, which has been determined to meet the criteria for listing in the National Register of Historic Places. Furthermore, portions of the rail line you propose to abandon may be in the viewshed of portions of the Morgan Park Historic District.

Based on the information submitted, the bridges, rails and related facilities will be sold intact and reused by another rail company. Therefore, we find that the project as proposed will have **no adverse effect** on Bridge L6188, or the Morgan Park Historic District.

If your project plans change or the sale and reuse aspect of the proposal is not consummated, please let us know. Meanwhile, feel free to call me at (651) 259-3456 if you have any questions regarding our review.

Sincerely,



Mary Ann Heidemann, Manager
Government Programs and Compliance

cc. Duluth Heritage Preservation Commission

EXHIBIT D



CITY OF DULUTH
CHIEF ADMINISTRATIVE OFFICER
411 West First Street, Room 402
Duluth, Minnesota 55802
218/730-5370 FAX 218/730-5904
dmontgomery@duluthmn.gov

DAVID MONTGOMERY
Chief Administrative Officer

April 28, 2011

Mr. Thomas J. Healey
Canadian National
Counsel – Regulatory
17641 S. Ashland Avenue
Homewood, IL 60430-1339

Re: Duluth, Missabe and Iron Range (DMIR) Railway Proposed Abandonment in
Duluth, St. Louis County, Minnesota – AB-101 (Sub-No. 18X)

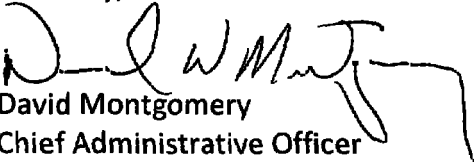
Dear Mr. Healey:

On February 16, 2011, the City of Duluth sent a letter indicating our position regarding the DMIR's proposed abandonment of a railroad line in the Morgan Park neighborhood of Duluth.

City staff has since worked with interested parties to explore the potential impact of the proposed abandonment. In doing so we have resolved any issues which we felt may have any potential adverse effect upon local land use plans. This letter shall serve as a formal withdrawal of our letter dated February 16, 2011.

The City of Duluth appreciates the manner in which we were able to work with your organization regarding this particular issue, and we look forward to building upon that cooperation in the future for the best interest of all. Thank you for your cooperation.

Sincerely,



David Montgomery
Chief Administrative Officer

c: Surface Transportation Board
Heidi Timm-Bijold
Kevin Soucie